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HOUSE BILL 652

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Rhonda S. King

AN ACT

RELATING TO INSURANCE; AMENDING AND ENACTING SECTIONS OF THE
NEW MEXICO INSURANCE CODE TO PROVIDE FOR APPROVAL BY THE PUBLIC
REGULATION COMMISSION OF APPOINTMENTS BY THE SUPERINTENDENT OF
INSURANCE; PROVIDING FOR APPEALS OF DECISIONS BY THE
SUPERINTENDENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 59A, Article 2 NMSA
1978 is enacted to read:

"[NEW MATERIAL] SUPERINTENDENT--APPOINTMENTS APPROVED BY
COMMISSION.--All appointments made by the superintendent of any
person to a board, commission, committee or similar group
pursuant to any statutory or regulatory authority shall be
subject to the approval of the commission."

Section 2. Section 59A-4-20 NMSA 1978 (being Laws 1984,
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1 Chapter 127, Section 67, as amended) is amended to read:

2 "59A-4-20. APPEAL TO COURT.--

3 A. A party may appeal from an order of the
4 superintendent made after an informal hearing or an
5 administrative hearing only by filing a petition with the
6 commission within thirty days after final disposition of the
7 matter by the superintendent. The commission shall either
8 grant or refuse the petition within twenty days after it is
9 filed. If the commission fails to act on the petition within
10 that time period, it shall be deemed a refusal. If the
11 commission grants the petition, it shall render a final order
12 of disposition within sixty days of the granting of the
13 petition. A refusal of the petition or final order of
14 disposition made by the commission pursuant to this section
15 shall constitute the final order of agency action, and the
16 entire matter may be subject to review by appeal to the supreme
17 court, except for matters arising pursuant to the Patient
18 Protection Act, in which case the appeal shall be taken to the
19 district court pursuant to the provisions of Section 39-3-1.1
20 NMSA 1978.

21 [~~B. This section shall not apply as to matters~~
22 ~~arising pursuant to Chapter 59A, Article 17 NMSA 1978.]~~

23 B. The appeal shall be taken to the supreme court
24 by filing a notice of appeal with the supreme court asking for
25 review of the order within thirty days of the final order. The

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1 appellant shall pay to the commission any costs of preparing
2 and transmitting the record to the court.

3 C. The pendency of an appeal shall not
4 automatically stay the order appealed from. The appellant may
5 seek to obtain a stay from the commission or the supreme court.

6 D. The appeal shall be on the record of the hearing
7 before the commission and shall be governed by the appellate
8 rules applicable to administrative appeals. The supreme court
9 shall affirm the commission's order, unless it is:

10 (1) arbitrary, capricious or an abuse of
11 discretion;

12 (2) not supported by substantial evidence in
13 the record; or

14 (3) otherwise not in accordance with law.

15 E. In the case of a failure or refusal of any
16 person to comply with an order of the commission within the
17 time prescribed in the order or within thirty days after the
18 order is entered, whichever is later, unless a stay has been
19 granted, the commission shall seek enforcement of the order in
20 the district court. The enforcement hearing shall be held on
21 an expedited basis. At the hearing, the sole question shall be
22 whether the person has failed to comply with or violated the
23 order."

24 Section 3. Section 59A-17-35 NMSA 1978 (being Laws 1984,
25 Chapter 127, Section 330, as amended by Laws 1999, Chapter 265,
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1 Section 67 and also by Laws 1999, Chapter 289, Section 26) is
2 amended to read:

3 "59A-17-35. APPEALS FROM COMMISSION.--Any order made by
4 the public regulation commission pursuant to Section 59A-17-34
5 NMSA 1978 shall be subject to review by appeal to the
6 [~~district~~] supreme court pursuant to the provisions of Section
7 39-3-1.1 NMSA 1978. Upon institution of the appeal and for
8 good cause shown upon motion and hearing, the court may, in the
9 following cases, stay operation of the commission's order:

10 A. where, pursuant to Chapter 59A, Article 17 NMSA
11 1978, a rate service organization has been refused a license or
12 an insurer has been refused a certificate of authority or had
13 its license or certificate of authority suspended, it may, with
14 leave of court, be allowed to continue to engage in business,
15 subject to the provisions of that article, pending final
16 disposition of its application for review; or

17 B. where any order of the commission shall provide
18 for, or sustain the superintendent's order for, a change in any
19 rate or rating system that results in an increase or decrease
20 in rates, any insurer affected may, with leave of court pending
21 final disposition of the proceedings in the [~~district~~] supreme
22 court, continue to charge rates that existed prior to such
23 order, on condition that the difference in the rates be
24 deposited in a special escrow or trust account with a reputable
25 financial institution by the insurer affected, to be held in

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1 trust by such insurer and to be retained by the insurer or paid
2 to the holders of policies issued after the order of the court,
3 as the court may determine."

4 Section 4. Section 59A-57-4.1 NMSA 1978 (being Laws 2003,
5 Chapter 327, Section 2) is amended to read:

6 "59A-57-4.1. EXTERNAL GRIEVANCE APPEALS--APPOINTMENT--
7 COMPENSATION.--

8 A. Subject to the review and concurrence of the
9 commission, the superintendent [~~may~~] shall appoint one or more
10 qualified individuals to review external grievance appeals.

11 B. The superintendent shall fix the reasonable
12 compensation of each appointee based upon, but not limited to,
13 compensation amounts suggested by national or state legal or
14 medical professional societies, organizations or associations.

15 C. Upon completion of the external grievance appeal
16 review, the superintendent shall prepare a detailed statement
17 of compensation due each appointee and shall present the
18 statement to the enrollee's health insurer.

19 D. The enrollee's health insurer shall pay the
20 compensation directly to each appointee who participated in the
21 external grievance appeal review.

22 E. The superintendent shall promulgate rules to
23 implement this section."

24 Section 5. Section 59A-57-5 NMSA 1978 (being Laws 1998,
25 Chapter 107, Section 5) is amended to read:

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1 "59A-57-5. CONSUMER ASSISTANCE--CONSUMER ADVISORY BOARDS
2 [~~OMBUDSMAN OFFICE~~]~~--REPORTS TO CONSUMERS--SUPERINTENDENT'S~~
3 ORDERS TO PROTECT CONSUMERS.--

4 A. Each managed health care plan shall establish
5 and adequately staff a consumer assistance office. The purpose
6 of the consumer assistance office is to respond to consumer
7 questions and concerns and assist patients in exercising their
8 rights and protecting their interests as consumers of health
9 care.

10 B. Each managed health care plan shall establish a
11 consumer advisory board. The board shall meet at least
12 quarterly and shall advise the plan about the plan's general
13 operations from the perspective of the enrollee as a consumer
14 of health care. The board shall also review the operations of
15 and be advisory to the plan's consumer assistance office.

16 [~~D.~~] C. The department shall prepare an annual
17 report assessing the operations of managed health care plans
18 subject to the department's oversight, including information
19 about consumer complaints.

20 [~~E.~~] D. A person adversely affected may file a
21 complaint with the superintendent regarding a violation of the
22 Patient Protection Act. Prior to issuing any remedial order
23 regarding violations of the Patient Protection Act or its
24 regulations, the superintendent shall hold a hearing in
25 accordance with the provisions of Chapter 59A, Article 4 NMSA

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1 1978. The superintendent may issue any order [~~he~~] the
2 superintendent deems necessary or appropriate, including
3 ordering the delivery of appropriate care, to protect consumers
4 and enforce the provisions of the Patient Protection Act. The
5 superintendent shall adopt special procedures to govern the
6 submission of emergency appeals to [~~him~~] the superintendent in
7 health emergencies.

8 E. A person adversely affected by any order to
9 grant or deny relief that is issued by the superintendent
10 pursuant to Subsection D of this section shall have the right
11 to hearing, review and appeal, pursuant to Sections 59A-4-15
12 and 59A-4-20 NMSA 1978, as they may apply."

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